



## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket No. 21-93; DA 23-405; FR ID 142102]

### Establishing Emergency Connectivity Fund to Close the Homework Gap

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Wireline Competition Bureau (Bureau) grants, in part, the Request for Waiver filed by the Schools, Health & Libraries Broadband Coalition and the Consortium for School Networking (collectively, the Petitioners). The Bureau waives and extends the service delivery date for certain applicants who applied for Emergency Connectivity Fund support for equipment, other non-recurring services, and recurring services during the first, second, and third filing windows. The Bureau also waives and extends the service delivery date for recurring service requests for first, second, and third filing window applicants that were approved for new construction services, but were unable to use the full amount of their approved funding for monthly recurring services associated with the construction.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Kate Dumouchel, Wireline Competition Bureau, (202) 418-7400 or by email at [Kate.Dumouchel@fcc.gov](mailto:Kate.Dumouchel@fcc.gov). The Federal Communications Commission (Commission) asks that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Bureau's Order in WC Docket No. 21-93; DA 23-405, adopted May 12, 2023, and released May 12, 2023. Due to the COVID-19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following Internet address: <https://www.fcc.gov/document/wcb-extends-emergency-connectivity-fund-service-delivery-deadline>.

## I. INTRODUCTION

1. In this document, the Bureau grants, in part, the Request for Waiver filed by the Schools,

Health & Libraries Broadband (SHLB) Coalition and the Consortium for School Networking (CoSN) (collectively, the Petitioners). First, the Bureau waives and extends the service delivery date for certain applicants who applied for Emergency Connectivity Fund (ECF) support for equipment, other non-recurring services, and recurring services during the first, second, and third filing windows, recognizing that some did not receive a funding commitment decision letter (FCDL) or revised funding commitment decision letter (RFCDL) approving an appeal, waiver, or post-commitment change request early enough to make full use of the commitment. Next, the Bureau waives and extends the service delivery date for recurring service requests for first, second, and third filing window applicants that were approved for new construction services, but were unable to use the full amount of their approved funding for monthly recurring services associated with the construction.

2. The Bureau finds that because of the timing for processing ECF applications and other factors beyond ECF applicants' and service providers' control, some ECF applicants may not be able to use all of their approved committed funding to the fullest extent possible without an additional waiver and extension of the service delivery date. Therefore, in providing this relief, the Bureau makes it easier for ECF applicants to use their full approved funding commitments and ensure applicants are treated fairly and equitably regardless of when their ECF applications are processed and funding commitment decision letters are issued. At the same time, The Bureau also seek to de-obligate funding that applicants do not need as soon as possible to make additional funds available for the ECF funding applications that otherwise could not be funded because demand received during the third application filing window exceeded the amount of available funds. Accordingly, the Bureau grants, in part, the Petitioners' request and waives and modifies § 54.1711(e) of the Commission's rules, and the Bureau directs the Universal Service Administrative Company (USAC or Administrator) to extend the service delivery date for all the relevant funding requests, as discussed further below.

## **II. DISCUSSION**

3. Generally, the Commission's rules may be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.

4. To ensure the first and second filing window ECF applicants can fully use their approved funding, the Bureau finds that good cause exists to waive and extend the service delivery date if an FCDL or RFCDL approving an appeal, waiver, or post-commitment change was issued after a certain date, depending on funding request type. For recurring service funding requests with an FCDL or approved RFCDL dated on or after July 1, 2022, the service delivery date is 14 months after the date of the FCDL or approved RFCDL, but not to extend beyond June 30, 2024. For eligible equipment funding requests with an FCDL or approved RFCDL dated on or after January 1, 2023, the Bureau extends the service delivery date to 180 days after the date of the FCDL or RFCDL, not to extend beyond June 30, 2024. The Bureau provides 14 months and 180 days, respectively, because it recognizes that receiving a commitment decision after a specific date that then does not allow the applicant to use the full 12 months of approved recurring services, or receive its approved equipment, presents special circumstances that merit a waiver of our rules. This means that applicants receiving an FCDL or RFCDL will have time to purchase equipment or up to 12 months of recurring services delivered after the FCDL or approved RFCDL, but not to extend beyond the ECF Program's sunset date of June 30, 2024.

5. For equipment funding requests submitted in the first and second filing windows, the Bureau finds that six months is sufficient time for delivery after an FCDL or RFCDL. In this regard, the Bureau notes that connected devices, hotspots, and other eligible equipment are commercially available through multiple service providers and that supply chain issues that may have existed during the pandemic have lessened. Given our goal of ensuring that ECF funds are used expeditiously for their intended purpose, and that any unused funding is available for the pending third application filing window ECF requests, the Bureau expects schools and libraries to timely place orders for eligible equipment, and for service providers to timely fulfill them. Further, if the requested equipment is no longer needed, the Bureau also expects applicants will take action to return the unneeded funds to the program so the funds may be made available to other ECF applicants whose students, school staff, or library patrons have continuing unmet needs. Accordingly, the Bureau is providing a shorter period of time for the receipt and delivery of eligible equipment to ensure this funding is being used expeditiously, and for the intended purposes of this emergency program.

6. The Petitioners request that the Bureau extends the service delivery date for all first and

second window applicants that did not receive the FCDL or approved RFCDL until on or after March 1, 2022. The Bureau finds that, on balance, a blanket waiver is not appropriate for these funding requests and that it is better to target the waiver relief to the ECF applicants that are more likely to have issues being able to use their full funding commitment before the service delivery date. The Bureau must balance its efforts to de-obligate unused ECF funding and make it available to the remaining third window ECF applications that otherwise cannot be funded because of insufficient available funds. If there are applicants that received funding commitment decisions before the dates outlined in this document or other applicants that fall outside of the relief provided in this document, and are unable to fully use their committed ECF support due to special circumstances, they may file a waiver with the Commission to request to extend their current service delivery date. This will allow the Bureau to grant relief to those applicants that may need additional time without delaying the Commission's ability to de-obligate unused ECF funding for the majority of first and second window ECF applicants that have fully used their funding and do not need additional time. For similar reasons, the Bureau also elects to extend the service delivery date for first and second window applicants that received an FCDL or RFCDL on or after July 1, 2022, for recurring services, and on or after January 1, 2023, for equipment, by 14 months and 180 days, respectively, rather than extending all these ECF first and second window funding requests' service delivery dates to June 30, 2024, in order to de-obligate unused funds and make them available for remaining timely-filed ECF third window requests. Fourteen months provides schools and libraries with time to deploy equipment and provide up to 12 months of recurring service, and 180 days provides schools and libraries with time to purchase and distribute equipment and devices to students, school staff, and library patrons with unmet need.

7. Next, the Bureau extends the current December 31, 2023, service delivery date to June 30, 2024, for all third application filing window equipment, non-recurring, and recurring service requests. The Bureau recognizes that due to circumstances beyond the control of the ECF applicants and service providers, additional time is needed for applicants to be able to fully use their approved funding for these third window requests. Receiving a commitment decision or an approved appeal or waiver after a specific date that then does not allow the applicant time to purchase and receive the approved eligible equipment and services, presents special circumstances that merit a waiver of our rules. Unlike for the

funding requests from the first and second filing windows, on balance, the Bureau finds that a single service delivery date for the majority of third window funding requests provides administrative simplicity and reduces confusion given that these funding requests with a current December 31, 2023, service delivery date will likely not be de-obligated and committed in time to allow additional third filing window applicants enough time to purchase and receive eligible equipment and services before the program's funding sunsets on June 30, 2024. This extension is limited to the number of months requested and approved in the third application filing window, and is not to exceed 12 months.

8. Recognizing that there are some recurring services associated with new construction funding requests that may need additional time, the Bureau also extends relief to ECF applicants receiving a commitment for recurring services associated with a new construction request approved during the first, second, or third filing windows that received an FCDL or approved RFCDL on or after July 1, 2022. Unlike requests for equipment or commercially available services, applicants seeking support for new construction are provided one year from the date of their funding commitment decision letter to demonstrate that construction is completed and the services have been provided. The one-year deadline for new construction was established to ensure the greatly needed services were provided as quickly as possible to these students, school staff, and library patrons with continuing unmet needs. The Bureau now recognizes that, due to special circumstances, some applicants are unable to fully use the months of service for which funding was approved because funding commitments were issued close to the service delivery date for these recurring service funding requests. The Bureau therefore extends the service delivery date to June 30, 2024, for approved recurring services associated with a new construction funding request if the FCDL or approved RFCDL for the new construction services was received on or after July 1, 2022. However, the Bureau does not otherwise extend or waive the current one-year deadline to complete the special construction services from the date of the FCDL.

9. The Bureau finds that waiving and extending the service delivery date for the ECF applicants discussed will not lead to any additional funding being made available to these applicants, but rather it allows the applicants to use their approved and committed ECF funding pursuant to the Commission's rules. In addition, the Bureau finds that the public interest would not be served if these applicants are not able to fully use the approved and committed ECF support for the eligible equipment

and broadband services needed for these students, school staff, and library patrons with unmet needs who otherwise are not able to fully engage in remote learning. Rather, the actions the Bureau takes today will allow applicants to provide and use the ECF-supported equipment and services beyond the current service delivery dates, thereby enhancing the availability of off-campus connectivity to students, school staff, and library patrons with continuing unmet needs consistent with the goals of the ECF Program.

10. The Bureau is mindful that these ECF funds are limited and have adopted safeguards to ensure the funds are fully used for their intended purpose. The Bureau concludes that waiving and extending the service delivery date for these ECF funding requests will allow for the greater provision of affordable devices and connectivity to students, school staff, and library patrons in need and, therefore, furthers the mission of the ECF. The Bureau encourages applicants and service providers, who agree to invoice on behalf of the applicant, to continue to submit timely requests for reimbursement after receiving the requested eligible equipment or services, to allow the unused ECF support to be made available to for the remaining ECF third window funding requests so that other students, school staff, and library patrons with continuing unmet needs can also be served before the June 30, 2024, sunset date of the ECF Program.

11. The Bureau also modifies § 54.1711(e) of the Commission's rules to reflect the updated service delivery deadlines adopted herein. The Bureau makes this change without notice and comment in accordance with the exception to the Administrative Procedure Act (APA) for procedural rules. The updated rule will become effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

12. Finally, the Bureau finds no evidence of waste, fraud, or abuse is presented by waiving and extending the service delivery date in this manner. The Bureau emphasizes that the Commission is committed to guarding against waste, fraud, and abuse and ensuring that funds disbursed through the ECF Program are used for their intended purposes to provide broadband connectivity and connected devices to students, school staff, and library patrons with unmet needs. Although the Bureau grants a waiver of and extends the service delivery date for certain ECF funding requests, these actions do not affect the authority of the Commission or USAC to conduct audits and other reviews and investigations to verify compliance with ECF Program rules and requirements. The Commission is also required to recover funds

disbursed in violation of statutory and/or rule requirements.

### **III. ORDERING CLAUSES**

13. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151-154 and 254, and §§ 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR 0.91, 0.291, and 1.3, that § 54.1711 of the Commission's rules IS WAIVED and AMENDED to the extent provided herein.

14. IT IS FURTHER ORDERED, that pursuant to § 1.102(b)(1) of the Commission's rules, 47 CFR 1.102(b)(1), the Order SHALL BE EFFECTIVE upon release.

15. The amended rule adopted in the Order constitutes a rule of agency organization, procedure and practice and is not subject to the Administrative Procedure Act requirements. Accordingly, this amended rule is EFFECTIVE **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

#### **List of Subjects in 47 CFR Part 54**

Communications common carriers, Health facilities, Infants and children, Internet, Libraries, Puerto Rico, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone, Virgin Islands.

Federal Communications Commission.

Cheryl Callahan  
Assistant Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau.

## Final Rule

For the reasons set forth above, the Federal Communications Commission amends 47 CFR part 54 as follows:

### **PART 54 – UNIVERSAL SERVICE**

1. The authority for part 54 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601-1609, and 1752, unless otherwise noted.

2. Amend § 54.1711 by revising paragraph (e) to read as follows:

#### **§ 54.1711 Emergency Connectivity Fund requests for reimbursement.**

\* \* \* \* \*

(e) *Service delivery date.* (1) Except as provided in paragraphs (e)(1)(i) and (ii) of this section, for the initial filing window set forth in § 54.1708(b) and second application filing window, the service delivery date for equipment, other non-recurring services, and recurring services is June 30, 2023.

(i) If the funding commitment decision letter or a revised funding commitment decision letter approving an appeal, waiver, or post-commitment request for equipment, is received on or after July 1, 2022, the service delivery date for service funding requests is 14 months from the date of that letter or June 30, 2024, whichever date is earlier.

(ii) If the funding commitment decision letter or a revised funding commitment decision letter approving an appeal, waiver, or post-commitment request for equipment, is received on or after January 1, 2023, the service delivery date for equipment is 180 days from the date of that letter or June 30, 2024, whichever date is earlier.

(2) For the third application filing window and any subsequent filing windows covering funding for purchases made between July 1, 2022, and June 30, 2024, the service delivery date for equipment, other non-recurring services, and recurring services is June 30, 2024.



